

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANDREW CASTERLINE,)	
)	
Petitioner,)	8:18CV368
)	
v.)	
)	
BRAD HANSEN,)	ORDER
)	
Respondent.)	
_____)	

I will dismiss this “mixed” petition without prejudice. I warn the Petitioner that he must promptly seek relief in the state court or the statute of limitations may run against him. The Respondent calculates that the Petitioner has 161 days to file a habeas petition after he exhausts his state court remedies. The Respondent further agrees not to assert a subsequent habeas petition as time barred so long as Petitioner acts promptly to exhaust his state court remedies and to file his habeas petition thereafter. Petitioner is advised that any subsequent petition will be given a separate filing number and treated as a new case. Accordingly,

IT IS ORDERED that:

(1) The motion to dismiss (filing no. 14) is granted and this matter is dismissed without prejudice. Any subsequent petition will be given a separate filing number and treated as a new case.

(2) A separate judgment will be issued.

(3) The court has not and will not issue a certificate of appealability because it is apparent that Petitioner has filed a mixed petition and he has adequate time to exhaust that petition.¹

DATED this 18th day of December, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge

¹Petitioner was given leave to respond to the Respondent’s submission on the issue of the statute of limitations and whether this matter should be dismissed. See filing no. 17. He did not respond.